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# Appeal Decision

Site visit made on 22 August 2022

**by Robert Parker BSc (Hons) Dip TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 07 October 2022**

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**Appeal Ref: APP/Q3305/W/21/3289537**

**Land At 380227 152171, Great Dunns Close, Beckington, Frome BA11 6AF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Redrow Homes Limited against the decision of Mendip District Council.
  - The application Ref 2020/1150/FUL, dated 18 June 2020, was refused by notice dated 18 October 2021.
  - The development proposed is 30no. dwellings, public open space and associated infrastructure.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Mendip District Local Plan 2006-2029: Part II Sites and Policies (LPP2) was adopted in December 2021, after the application was determined. The LPP2 is the subject of legal challenge and the case is due to be heard in the autumn. Interested parties have requested that the appeal be placed on hold until the outcome of the challenge is known. The main parties agree that the appeal should not be delayed. The general principle is that a plan is valid unless and until declared unlawful and on this basis I shall proceed to a decision.

## Main Issues

3. The main issues are:
  - a) whether the proposal makes adequate provision for foul and surface water drainage; and
  - b) the effect of the development on the settings of designated heritage assets, namely the Beckington Conservation Area and Grade II listed buildings on Goose Street.

## Reasons

### *Foul drainage*

4. Beckington has a long history of problems with its drainage system, with residents suffering from incidences of foul sewage overflowing onto their properties. Judging by representations received during the appeal process, these problems are still ongoing. The experiences of those affected are unpleasant and they have a significant detrimental impact on quality of life in addition to having public health implications.

5. The Council is aware of the issue, having undertaken a drainage review in partnership with relevant agencies including Wessex Water. The review concluded, amongst other things, that capacity is periodically affected by blockages caused by wet wipes and fat deposits in the system. A number of potential misconnections have also been identified whereby surface water appears to be discharging into the foul/combined system in several areas of the village. Funding has been allocated to a drainage improvement project and works are planned for autumn 2022, although I have not seen a timetable.
6. The proposal is to connect the development to the foul water sewer in Great Dunns Close. This discharges by gravity to a foul sewer in Bath Road which then heads southwards into and through Beckington. The arrangement was agreed with Wessex Water. The statutory undertaker has indicated that the acceptability of the appeal scheme is not dependent upon the planned drainage improvement works being carried out. It contends that the foul flows from the development would be minimal compared to existing combined foul and surface water flows conveyed by the village's sewer system.
7. Whilst I acknowledge this argument, it does not alter the fact that the proposed development would be increasing the volume of effluent in a sewer network which is already under pressure and the source of significant problems. Despite the investigations carried out to date, there can be no guarantee that the drainage improvement works will solve the issues; the 'potential' misconnections will need to be investigated in more detail prior to any remedial works taking place. It therefore seems to me that it would be premature to grant planning permission for major development before the improvement works have been completed. Even if they had been carried out, there would need to be a period of evaluation to establish whether the works had been effective.
8. I note that under a previous appeal scheme<sup>1</sup>, it was anticipated that the drainage would not connect to the main foul water system for Beckington but rather go to the north on an alternative route to the sewage treatment works. According to the Council, the arrangement for the alternative route was to 'pump foul over the Bath Road towards the cricket club to connect into the foul sewer serving the houses on this road to then more directly discharge to the water recycling facility on the banks of the River Frome'. I have not been provided with a substantive explanation as to why the alternative option, which the last Inspector considered to be appropriate, has been rejected in preference to making a direct gravity connection into the existing Bath Road sewer.
9. Although the appeal site is allocated for development, Policy BK1 of the LPP2 places the caveat that proposals will need to demonstrate drainage capacity can be accommodated without a detrimental impact on the settlement. Policies DP7 and DP8 of the Mendip District Local Plan 2006-2029: Part I Strategy and Policies (LPP1) seek, amongst other things, to ensure that development does not give rise to unacceptable adverse environmental impacts, including in relation to residential amenity and public health. The historic problems in Beckington persuade me that there should be a high degree of certainty on the efficacy of the foul drainage arrangements, prior to making a grant of planning permission. The required level of certainty does not yet exist and for this reason I find conflict with the aforementioned development plan policies.

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<sup>1</sup> APP/Q3305/W/17/3187245

### *Surface water drainage*

10. Ground conditions on the site do not allow for water infiltration and therefore the proposal is to discharge surface water at greenfield runoff rates to an existing ditch along the northern boundary. This connects to a culvert under Bath Road to the north. The Lead Local Flood Authority raised no objections to this arrangement, subject to the imposition of a condition which would secure long term management arrangements.
11. I note, however, that the culvert investigation works undertaken by the appellant did not uncover the downstream connection point due to difficulties with access and overgrown vegetation. The Council has indicated that the culvert is heavily silted and will require clearance. The appellant considers this to be the responsibility of the riparian owner under the Land Drainage Act. Whilst that may be the case, there is no substantive information before me on the capacity and condition of the culvert. This means that there can be no certainty regarding the adequacy of the proposed arrangements. Due to the history of flooding in Beckington it is imperative that surface water can be handled without placing pressure on existing combined sewers. Dealing with the matter by planning condition, as is being suggested, leaves a significant element of doubt as to whether satisfactory drainage can be achieved. In my judgement, a higher degree of confidence is required than might ordinarily be the case. For this reason, I find conflict with LPP2 Policy BK1 in respect of surface water drainage matters.

### *Heritage assets*

12. The appeal site lies outside of, but adjacent to the Beckington Conservation Area. A number of Grade II listed buildings within the Conservation Area back onto the site, including 29, 31 and 33 Goose Street (a single listing); Dayton House (No 35) Goose Street; 41 Goose Street<sup>2</sup>; Ceomar (47 and 49) Goose Street; and "Barn 30 metres west of rear of No 59 Goose Street". The latter building has been converted to a dwelling and is known as 51A Goose Street.
13. The Conservation Area Appraisal (CAA) for Beckington (2010) notes that there are "clean edges" to the village in various locations, including behind Goose Street – which can only mean to the north. The CAA explains that this undeveloped land is important in maintaining historic boundaries, preserving views into and out of the village and providing a setting for older buildings.
14. There is already a large block of modern housing between Goose Street and Warminster Road, but this is not particularly evident from the historic core. Although elevated in relation to Goose Street, that development is located over and beyond a ridge and there is sufficient separation distance to prevent harm to the settings of the Conservation Area and the listed buildings within it.
15. The proposal would bring built form closer to the Conservation Area with the southernmost plots (Nos 14 to 18 inclusive) being located along the ridge. The intervening land to the south falls away to the rear boundaries of properties on Goose Street and this area would remain as public open space.
16. The density of development along Goose Street means that there would be limited visibility of the scheme from public vantage points inside the

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<sup>2</sup> This used to be two dwellings, Nos 41 and 43, but have been combined. The listing description gives the address as No 43, but I will use No 41 as this is the current postal address.

Conservation Area. The occasional roof may be discernible in the gaps between existing buildings, but these would be no more than distant glimpses and the development would be inconspicuous. That said, the two-storey dwellings on the ridge would be seen from properties and gardens on the north side of Goose Street. This encroachment of urban form would erode the rural backdrop of the listed buildings, particularly No 51A which I am told has an historic functional link to the former agricultural use of the appeal site.

17. Policy BK1 of the LPP2, which allocates the site for a minimum of 28 dwellings, acknowledges the potential impact on heritage assets. It requires proposals to preserve and enhance the significance and setting of heritage assets in the adjoining conservation area. The supporting text states that a buffer of green space should be provided to protect the setting of the heritage assets, having regard to the landform which rises northwards from the Conservation Area boundary. The layout of the appeal scheme meets this policy requirement. It also proposes significant amounts of landscaping which, over time, would provide screening and soften the interface with heritage assets. However, it would be impossible to mitigate the harm arising from the change in the character of the site from agricultural field to managed public open space and the severing of the historic link between the listed former barn and the site.
18. I note that the impact on heritage assets has been considered previously in the context of a S78<sup>3</sup> Inquiry and the Local Plan Examination into the LPP2. The planning application related to a scheme which was similar in layout to that which is before me, albeit for two dwellings fewer. Neither Inspector considered the heritage impacts to be fatal to the principle of development and this is a judgement with which I concur.
19. The main parties are agreed that the harm to the significance of designated heritage assets would be less than substantial. In my opinion, the harm would fall at the very lower end of the scale. Paragraph 202 of the National Planning Policy Framework ('the Framework') states that in such circumstances, the harm should be weighed against the public benefits of the proposal. Compliance with Policy DP3 of the LPP1 will turn on this balancing exercise.

### **Unilateral Undertakings**

20. The appellant has submitted a signed unilateral undertaking (UU) which secures a travel plan, on-site affordable housing, public open space (including a Local Area for Play) and financial contributions towards an off-site Multi-Use Games Area (MUGA) and improvements to the strategic highway network at the A36 Beckington and White Row roundabouts. A second UU has been provided in respect of education contributions. The latter reflects the possibility that a planning appeal<sup>4</sup> relating to a proposal for up to 45 dwellings on Land North of Warminster Road in Beckington is allowed. The education contributions are intended to mitigate the impact of the scheme on existing infrastructure and therefore they are neutral in the overall balance. Since I am dismissing the appeal I do not need to reach a finding on whether the education contributions are necessary to make the development acceptable.
21. The Council has not opted to comment on the wording of either UU and accepts that Reason for Refusal no. 3 has been overcome. I shall proceed on that basis.

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<sup>3</sup> APP/Q3305/W/17/3187245

<sup>4</sup> APP/Q3305/W/21/3288474

## **Planning Balance and Conclusion**

22. The Council concedes that it is unable to demonstrate a 5 year supply of deliverable housing sites. The Statement of Housing Land Supply published in March 2021 estimated supply at 3.5 years, representing a shortfall of 947 dwellings. Paragraph 11(d) of the Framework indicates that where the requisite supply does not exist, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. The proposal would make a meaningful contribution to addressing the shortfall of housing in the District, and this would include the provision of 9 affordable units in line with policy requirements. The appellant advises that the scheme could be built out in its entirety within 18 months of approval. Given the housing land supply position and the Government's objective of significantly boosting the supply of homes, the benefits of housing delivery carry significant weight. Furthermore, this is an allocated site and therefore the principle is established under the development plan.
24. The development would incorporate enhanced sustainability measures together with biodiversity enhancements and public open space in excess of policy requirements. These are benefits to which I have attached some weight. The provision of monies towards off-site highway improvements and a MUGA would contribute to the delivery of wider benefits and this is another positive factor to be weighed in the balance. The development would also generate employment during the construction phase and it would bring other benefits through the New Homes Bonus and additional spending in the local economy.
25. The harm to the settings of the Beckington Conservation Area and listed buildings would lie at the lower end of the scale and it would be outweighed by the public benefits of this particular scheme. This would ensure compliance with Policy DP3 of the LPP1, notwithstanding that great weight should always be attached to any harm to designated heritage assets.
26. The development plan makes clear that housing on the appeal site will only be acceptable where it can be demonstrated that drainage capacity can be accommodated without a detrimental impact on the settlement. This is a high bar and requires greater certainty than presently exists, notwithstanding the consensus amongst drainage professionals. In my view, this is not a matter which should be addressed through conditions. The drainage concerns bring the scheme into conflict with the development plan as a whole. The adverse impacts of unsatisfactory drainage would significantly and demonstrably outweigh the benefits. Consequently, material considerations do not exist to justify a decision otherwise than in accordance with the development plan.
27. For the reasons given above and having taken account of all matters raised I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR